

ENTERED

October 12, 2021

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

YESSICA ARELY MARTINEZ-LEOS

Plaintiff

VS.

UNITED STATES OF AMERICA

§
§
§
§
§
§

CIVIL ACTION NO. 7:21-CV-00255

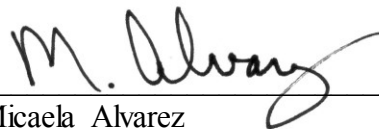
ORDER

Pending before the Court is Movant Yessica Arely Martinez-Leos's Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255, which had been referred to the Magistrate Court for a report and recommendation. On September 13, 2021, the Magistrate Court issued the Report and Recommendation, recommending that Movant's motion to withdraw be granted, that Movant be denied a certificate of appealability as unnecessary, and that this action be dismissed. The time for filing objections has passed and no objections have been filed.

Pursuant to Federal Rule of Civil Procedure 72(b), the Court has reviewed the Report and Recommendation for clear error.¹ Finding no clear error, the Court adopts the Report and Recommendation in its entirety. Accordingly, it is hereby ORDERED that Movant's Motion to Withdraw is **GRANTED**, that Movant is denied a certificate of appealability as unnecessary, and that this action is **DISMISSED**.

IT IS SO ORDERED.

DONE at McAllen, Texas, this 12th day of October, 2021.



Micaela Alvarez

United States District Judge

¹ As noted by the Fifth Circuit, "[t]he advisory committee's note to Rule 72(b) states that, '[w]hen no timely objection is filed, the [district] court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Douglas v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1420 (5th Cir. 1996) (quoting FED. R. CIV. P. 72(b) advisory committee's note (1983)) *superceded by statute on other grounds by* 28 U.S.C. § 636(b)(1), *as stated in* *ACS Recovery Servs., Inc. v. Griffin*, No. 11-40446, 2012 WL 1071216, at *7 n.5 (5th Cir. Apr. 2, 2012).